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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,464	02/27/2004	Stephen H. Arshinoff	1066-040480	5176
7590	01/31/2008			
Russell D. Orkin WEBB ZIESENHEIM LOGSDON ORKIN & HANSON P.C. 700 Koppers Building 436 Seventh Avenue Pittsburgh, PA 15219-1818				EXAMINER HYLTON, ROBIN ANNETTE
				ART UNIT 3781
				PAPER NUMBER PAPER
				MAIL DATE 01/31/2008
				DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.	10/789,464	Applicant(s)	ARSHINOFF, STEPHEN H.
Examiner	Robin A. Hylton	Art Unit	3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 15 November 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "the radial beads predisposing strain creases to form in an even pattern coincident with said radial beads in a direction towards said lid perimeter".

### *Claim Rejections - 35 USC § 112*

2. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the disclosure as originally filed for the radial beads predisposing strain creases to form in an even pattern coincident with said radial beads "in a direction towards said lid perimeter". The disclosure only sets forth the "creases 440 have formed partially coincident with the beads 450" (paragraph 015). This is a **new matter** rejection.

### *Claim Rejections - 35 USC § 102*

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Oblak (US 5,685,449).

Oblak discloses a sealed container comprising: a (metal) container body **12** having an open top and a removable lid **10** covering the open top of said container body and being crimped to said container body about the periphery of said lid, said lid comprising a plurality of generally evenly spaced, elongate radial beads **46** extending from adjacent the center of said lid

to adjacent a position spaced apart from the perimeter of said lid, said radial beads predisposing strain creases to form in an even pattern coincident with said radial beads in a direction towards said lid perimeter when a pressure differential develops across said lid.

See column 6, lines 46-51 which states "when the lid is subjected to increases in internal pressure within the materials container, illustrated by arrows 48 in FIG. 6, wrinkles 47 (FIGS. 3 and 4) are formed in the central body portion of the lid. The wrinkles tend to intersect the sacrificial depressions 46 which are weaker and thus more susceptible to deformation." This indicates the creases are formed in a direction toward the perimeter of the lid. Thus, anticipating the claims.

***Claim Rejections - 35 USC § 103***

5. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oblak.

Wherein it can be argued Oblak teaches the claimed lid except is silent regarding stamping of the beads, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the lid including the beads by stamping since the examiner takes Official notice that it is well established in the closure art to form a metal lid by a stamping operation.

It is noted that this previously set forth common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate.

***Response to Arguments***

6. Applicant's arguments filed November 15, 2007 have been fully considered but they are not persuasive.

Applicant argues the rejection under 35 USC 112, first paragraph should be withdrawn since the noted disclosure of paragraph 0015 is "not limited thereto". While the disclosure may

not be limited thereto, there is no indication applicant intended or knew the creases would be formed in a direction toward the perimeter of the lid.

Applicant's arguments regarding the rejections in view of the patent to Oblak are not persuasive for the reasons set forth in the rejections above. The patent teaches the depressions, or beads, can be formed in any shape (column 6, 40-43). Additionally, the beads are spaced at a location from the center of the center of the lid and from the perimeter of the lid, wherein the perimeter as set forth in the instant claims contain the crimping. As noted above, the sacrificial depressions cause the creases formed by increased pressure within the container to align therewith, i.e., the creases form in the direction toward the perimeter, so the container remains sealed. See column 6, lines 46-59. Thus, the structure of Oblak does not teach away from the claimed invention as asserted by applicant, but rather anticipates the claimed instant invention.

#### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

10. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

11. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

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Signature \_\_\_\_\_

Date \_\_\_\_\_

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH  
January 29, 2008

/Robin A. Hylton/  
Robin A. Hylton  
Primary Examiner  
GAU 3781